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SUBJECT: GUATEMALAN JUDGE DISMISSES CASE AGAINST RIOS MONTT

REF: A. 03 GUATEMALA 1888

- [¶](#)B. 03 GUATEMALA 1900
- [¶](#)C. 03 GUATEMALA 1904

[¶](#)1. (SBU) A Guatemalan judge dropped charges of coercion, threats, sedition, and involuntary manslaughter against former army general and de facto head of state Efrain Rios Montt. The charges, tied to his presumed leadership of the "Black Thursday" riots of July 2003, were dropped at the request of the prosecutor who claimed there were no witnesses to link Rios Montt to events. Fifteen other accused co-conspirators, mostly family members and FRG associates of Rios Montt, chose not to contest the charges against them. They each received a sentence of 18 months' imprisonment for illegal assembly, commutable to a fine. Former Minister of Government, Jose Adolfo Reyes Calderon was sentenced to two years' imprisonment for negligence, also commutable to a fine. A separate case against Rios Montt, in which he is accused of genocide, remains open.

[¶](#)2. (SBU) Rios Montt supporters ran amok in the streets of Guatemala City on July 24-25, 2003, in a heavy-handed attempt to intimidate the authorities into allowing his presidential candidacy. The riots became known as "Black Thursday" and "Friday in Mourning." During those protests, which paralyzed and struck terror in Guatemala City for two days, journalist Hector Ramirez died of a heart attack after being chased by hooded protesters. His sons were co-plaintiffs in the involuntary manslaughter case against Rios Montt. For more than a year and a half, Rios Montt has been under house arrest pending trial. On January 29, citing lack of evidence, prosecutor Alba Gudiel asked Judge Victor Herrera to drop all charges and release Rios Montt from house arrest.

[¶](#)3. (SBU) Fifteen other defendants, most of them Rios Montt's family and political associates, admitted that they had participated in the demonstrations without confessing to any crime. In their cases, the prosecutor asked for "abbreviated proceedings," in which the accused agreed to abide by the judge's decision and waived the right to appeal. They were found guilty of illegal assembly, a misdemeanor offense. Judge Herrera sentenced each to 18 months imprisonment, commutable to a fine of Q13,700 (approximately \$1,800.00). Former Minister of Government Jose Adolfo Reyes Calderon also submitted to abbreviated proceedings and was sentenced to two years' imprisonment commutable to a fine of Q18,250 (approximately \$2,400.00). The former Chief of Police, Raul Manchame, has also been charged with negligence, but did not choose abbreviated proceedings. In his case, prosecutors must either produce a case against him or drop the charges.

[¶](#)4. (SBU) Some human rights activists and political leaders quickly condemned the proceedings, accusing the Public Ministry of incompetence and corruption. In fact,

controversy surrounded the investigation from the start. The Public Ministry was criticized roundly for waiting nearly a year to bring charges. After the change of government in early 2004, special prosecutor Nancy Paiz claimed that former Attorney General Carlos de Leon, an FRG appointee and personal friend of former president Portillo, also of the FRG, had ordered her not to investigate the case. In March 2004, prosecutor Thelma Palaez de Lam reported she had been subject to abuse and threats, which she attributed to her involvement in the case. The sons of Hector Ramirez, who are co-plaintiffs in the case, also reported threats against them.

¶15. (SBU) Although the 79-year-old Rios Montt has been exonerated in the "Black Tuesday" case, other charges are pending. Many hold Rios Montt responsible for human rights abuses committed by the army following the 1982 military coup d'etat that led to his assumption of power. In 2001, the Association for Justice and Reconciliation, with support from the Center for Human Rights Legal Action (CALDH) and Amnesty International, accused Rios Montt and four other generals of genocide, holding them responsible for 11 massacres carried out between April and October 1982. That case remains open and under investigation by the Public Ministry. Further, Nobel laureate Rigoberta Menchu has stated her intention to pursue genocide charges against Rios Montt in an international court.

¶16. (SBU) Comment: Chief prosecutor Florido told the Ambassador after the court ruling that he was satisfied that Rios Montt's co-defendants were all getting criminal records as a result of this case. Florido also said this case had suffered from expectations falsely inflated by the media. Indeed, we concur that even in the best of circumstances it would have been a stretch to prove that Rios Montt had masterminded the riots. Prosecutors should, however, have been able to build a stronger case against Reyes and Manchame (the Minister of Government and Chief of Police at that time) for dereliction of duty, since it was very clear that the police gave the FRG thugs free rein of the city on those fateful days. Even for Guatemalans jaded by the atrocities of the 1960-96 armed conflict, "Black Thursday" and "Friday in Mourning" still stand out as two days of terror-stricken panic and anxiety.

DERHAM